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HOFFMANN & BARON, LLP
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OFFICE OF PETITIONS

In re Application of	:
Pulnev et al.	:
Application No. 10/648775	: DECISION ON PETITION
Filing or 371(c) Date: 08/25/2003	: UNDER 37 CFR 1.78(a)(3)
Pat. Num.: 7160323	:
Issue Date: 01/09/2007	:
Attorney Docket No.	:
792-82 PCT/US/CON III	:

This is a decision on the "Petition to Accept Unintentionally Delayed Under 35 U.S.C. § 120," to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed application set forth in the Supplemental Preliminary Amendment filed in the application on May 10, 2004, and printed on the face of the patent, as corrected by the Request for Certificate of Correction filed with the present petition.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed January 28, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and

- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Office records reveal that the present patent was corrected as requested in the Certificate of Correction filed with the present petition, on November 2, 2010.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232.

This application is being referred to the files repository.



Christopher Bottorff
Supervisor
Office of Petitions